

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and discussion presented herein.

1. Objections to Claims 1 and 9.

The Examiner objected to Claim 1 due to a typographical error in the claim, which the Applicant has corrected.

The Examiner objected to the fact that Claim 9 was missing in the original application. In response, Applicant has indicated in the listing of claims that Claim 9 is canceled. Upon request of the Examiner, however, the Applicant will renumber the claims if necessary.

2. Rejection of Claims under 35 U.S.C. §102(b).

Claims 1-4, 10-11, 15-16, 20-22, 27, 31-33, and 38 were rejected under 35 U.S.C. §102(b), as being anticipated by Melendez (U.S. Patent No. 5,935,657). Claims 1, 15 and 17 are independent. The Examiner stated the reason for rejection as follows:

"Melendez teaches an apparatus for spraying fluid material comprising a plurality of nozzles (16), a manifold supporting the spray nozzles (14) and a handle (indicated as A) (see Fig. 1) coupled to the manifold wherein the handle has at least a portion positioned at an offset angle (a fixed angle) in relation to a longitudinal axis through the manifold. (see Fig. 1) The handle includes a fluid feed tube (58) of which provides a mean(s) fluidically coupled to at least one spray nozzle and also includes an arcuate section (see Fig. 1). The spraying apparatus includes a mean(s) for coupling and decoupling the handle to a source of pressurized fluid by having a tee connector (52). Melendez further teaches a valve body (i.e. anti-sputter valve) coupled to at least one nozzle (68) having an intake port, a central channel, an output port, a valve seat and the biased valve head (see Fig. 2) The valve is configured to allow fluid flow through when the pressure of the fluid exceeds a bias level and preventing fluid flow through when the pressure of the fluid falls below the bias level (col. 4, lines 5-12)."

(a) Claims 1, 15 and 27. The Applicant has carefully considered the cited references and the basis of the Examiner's rejection. In response the Applicant has

Appl. No.: 10/609,139
Amd. Dated 01/14/2005
Off. Act. Dated: 07/14/2004

amended these independent claims to clarify differences between the present invention and the disclosure of Melendez '657. First, the Applicant has amended the preamble of Claims 1, 15 and 27 to recite "A handheld apparatus for spraying a fluid material adapted to couple to a flow control valve having a grip and a trigger, comprising:" Additionally, the Applicant has amended the aforementioned claims to recite a feed tube that forms a handle, and "wherein said apparatus is adapted to be supported with one hand gripping the flow control valve and the other hand gripping said handle."

In Melendez '657 the flow control valve (20) is referenced by the Examiner as a handle. The cited reference also shows a handle 50 coupled to the base to adjust the height of the apparatus. The present invention has "(A) handle assembly 20 that preferably comprises a rigid feed tube 18 that is supported by a support bar 22." (page 13, line 1-3) "(N)ote that feed tube 18 is shown to be offset at an angle α ..." (page 13, line 8) "The offset angle allows the user to actuate a flow control valve 30 with one hand and hold and direct the position of the apparatus with the other hand during use by grasping feed tube 18 or arcuate portion 24." (page 13, line 9-12) Thus the present invention is supported with two hands; one hand to hold the flow control valve with a grip and trigger, (page 15, line 1-2) and the other hand to hold the feed tube forming handle assembly 20. Applicant respectfully submits that by adding the flow control valve to the preamble, and reciting the limitation that the apparatus is supported by both the flow control valve and the handle, amended Claims 1, 15 and 27 recite limitations of a handheld apparatus that are not disclosed, suggested or taught in Melendez '657.

Regarding the preamble of Claims 1, 15 and 27, the Applicant respectfully submits that the apparatus in Melendez '657 does not teach, suggest or motivate the limitation of a "handheld" apparatus. "Any terminology in the preamble that limits the structure of the claimed invention must be treated as a claim limitation." (MPEP 2111.02) One definition of handheld is "small and light enough to be operated while you hold it in your hands." (Wordnet Dictionary). The apparatus in Melendez '652 is supported on a rolling platform and is maneuvered by exerting lateral force on the

structure. Melendez '652 does not teach, suggest or motivate a handheld structure or operating their apparatus while supported by the hands of the operator.

Therefore, the Applicant respectfully submits that amended Claims 1, 15 and 27, as well as the claims which depend therefrom, recite one or more elements not found in the cited reference and is not anticipated by that reference. Further, the Applicant believes it would not be obvious in Melendez '652 to use the platform supported apparatus disclosed as a handheld apparatus as recited in the claims. In view of the amendments to Claims 1, 15, and 27 and accompanying remarks above, the Applicant believes that this ground for rejection has been sufficiently addressed and overcome, and respectfully requests reconsideration and withdrawal of this ground for rejection.

(b) Claims 2, 20 and 31. These claims have been canceled since their subject matter has been incorporated into the amendment to independent Claims 1, 15 and 27 respectively. Rejection of the aforementioned claims is now moot in view of the cancellation.

(c) Claims 3-4, 10-11, 16, 21-22, 32-33, and 38. These claims depend from independent Claims 1, 15 and 27. Since Claims 1, 15 and 27 are allowable for the reasons set forth above, Claims 3-4, 10-11, 16, 21-22, 32-33, and 38 are also allowable.

3. Rejection of Claims 5-8, 23-26, 34-37 and 39 under 35 U.S.C. § 103(a).

Claims 5-8, 23-26, 34-37 and 39 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Melendez '657. More specifically, the Examiner concluded that it would have been obvious for a skilled artisan to have a swivel adapter and/or a connector to provide an adjustable offset angle for the handle and to have made the handle comprising a separable union for coupling and decoupling the handle to a source of pressurized fluid.

In response, the Applicant has amended Claims 1, 15 and 27 as discussed above. Claims 5-8, 23-26, 34-37 and 39 depend from independent Claims 1, 15 and 27. Melendez '657 does not teach, suggest or provide motivation or incentive for the

subject matter of Claims 1, 15 and 27 or these claims which depend therefrom. Nor does Etheridge et al. (U.S. Patent No. 4,479,610) or any of the other cited references when combined with Melendez '657 teach, suggest or provide motivation or incentive for the subject matter of Claims 1, 15 and 27 or the subject matter of these claims which depend therefrom when combined with their base claims. Therefore, Claims 5-8, 23-26, 34-37 and 39 are allowable.

4. Rejection of Claims 12-14, 17-19, 28-30 under 35 U.S.C. § 103(a).

Claims 12-14, 17-19, 28-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Melendez '657 in view of Etheridge et al. (U.S. Patent No. 4,479,610) for following stated reason:

"Melendez has all the features of the invention(as mentioned above); however, Melendez failed to teach a mean(s) for increasing and decreasing the bias level on the valve head by adjusting the screw changing the compression of the spring. Etheridge et al. teach(es) a mean(s) for increasing and decreasing the bias level on the valve head by adjusting the screw changing the compression of the spring (col. 3, lines 10-13) (see Fig. 4). It would have been obvious to one skilled artisan in the art at the time the invention was made to have a mean(s) for increasing and decreasing the bias level on the valve head by adjusting the screw changing the compression of the spring to allow the right amount of fluid passing through the pipe to the nozzle."

In response, the Applicant has amended Claims 1, 15 and 27 as discussed above. Claims 12-14, 17-19, 28-30 depend from independent Claims 1, 15 and 27. Melendez '657 does not teach, suggest or provide motivation or incentive for the subject matter of Claims 1, 15 and 27 or these claims which depend therefrom. Nor does Etheridge et al. (U.S. Patent No. 4,479,610) or any of the other cited references when combined with Melendez '657 teach, suggest or provide motivation or incentive for the subject matter of Claims 1, 15 and 27 or the subject matter of these claims which depend therefrom when combined with their base claims. Therefore, Claims 12-14, 17-19, 28-30 are allowable.

5. Allowable Subject Matter for Claims 40-42.

The Applicant notes with appreciation the Examiner's determination that the Claims 40-42 would be allowable if rewritten in independent form to include all the limitations of the base claim and any intervening claims.

Applicant submits, however, that independent Claims 1, 15 and 27 from which these claims variously depend have been herein amended with accompanying remarks arguing their allowability in view of the cited references including those cited under the grounds for rejection in the present office action. In view of those amendments and accompanying remarks herein above, Applicant has retained Claims 40-42 in their original dependent form. Applicant herein submits these dependent claims should be considered allowable as a result of the allowability of their antecedent independent claims.

In addition, Applicant has herein added through amendment new Claims 43-48 which are intended to variously present, in independent form, what is believed to be the salient aspects that was considered allowable subject matter in Claims 40-42.

(a) New Independent Claim 43.

Original Claim 40 depends from Claim 39 which in turn depends from Claim 38. Claim 38 is a multiple dependent claim depending from original Claims 1, 15 or 27. New independent Claim 43 has been added to provide a generic claim covering the salient aspects of what Applicant believes formed the basis for indicating allowability of original Claim 40. More specifically, new Claim 43 incorporates the subject matter of original claim 1, original claim 38, original claim 39 and original claim 40. Claim 38 recited a "means for coupling and decoupling said handle to a source of pressurized fluid." Claim 39 recited "wherein said means for coupling and decoupling said handle to a source of pressurized fluid comprises a separable union." New Claim 43 incorporates the subject matter of original Claim 40 and recites, in part, "wherein said union comprises: a base member..., a seal... and a collar." Applicant herein submits new Claim 43 should be considered allowable as a result of the allowability of its subject

matter.

(b) New Claim 44.

New Claim 44 depends from new independent Claim 43 and recites the salient aspects of what Applicant believes to be allowable subject matter from Claim 15 that, when combined with the subject matter of original Claims 1, 38, 39 and 40, is the allowable subject matter of original Claim 40. More specifically, new Claim 44 recites "means fluidically coupled to at least one said spray nozzle for receiving a pressurized fluid." Applicant herein submits new Claim 44 should be considered allowable as a result of the allowability of its subject matter.

(c) New Claim 45.

New Claim 45 depends from new Claim 44 and recites the subject matter of original Claim 16 which depends from Claim 15 and which recites, in part, " wherein said means for receiving a pressurized fluid, ... comprises: a valve body, a valve seat ..., and a biased valve head." Applicant believes New Claim 45 to be allowable subject matter when combined with the subject matter of original Claims 15, 38, 39 and 40. Applicant herein submits new Claim 45 should be considered allowable as a result of the allowability of its base claim.

(d) New Claim 46.

New Claim 46 depends from new independent Claim 43 and adds the salient aspects of what Applicant believes to be allowable subject matter from Claim 27 that, when combined with the subject matter of original Claims 1, 38, 39 and 40, is the allowable subject matter of original Claim 40. More specifically, new Claim 46 recites, in part, "an anti-sputter flow control mechanism fluidically coupled to at least one said spray nozzle." Applicant herein submits new Claim 46 should be considered allowable as a result of the allowability of its subject matter.

(e) New Claim 47

New Claim 47 recites the subject matter of original Claim 41 and is multiple dependent on new Claims 43, 44 or 46 and recites, "wherein said seal has at least one

Appl. No.: 10/609,139
Amd. Dated 01/14/2005
Off. Act. Dated: 07/14/2004

frustoconical surface." Applicant herein submits new Claim 47 should be considered allowable as a result of the allowability of its subject matter.

(f) New Claim 48

New Claim 48 recites the subject matter of original Claim 42 and is multiple dependent on new Claims 43, 44 or 46 and recites, " a filter positioned within said base member." Applicant herein submits new Claim 48 should be considered allowable as a result of the allowability of its subject matter.

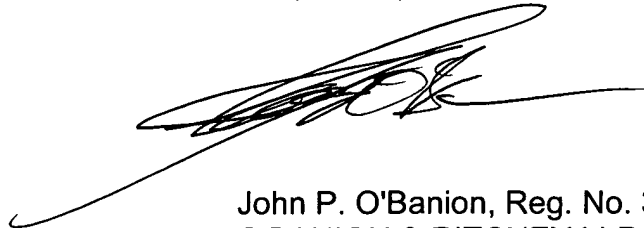
6. Conclusion.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

The Applicant also respectfully requests a telephone interview with the Examiner in the event that there are questions regarding this response, or if the next action on the merits is not an allowance of all pending claims.

Date: 1/14/05

Respectfully submitted,



John P. O'Banion, Reg. No. 33,201
O'BANION & RITCHEY LLP
400 Capitol Mall, Suite 1550
Sacramento, CA 95814
(916) 498-1010